

EXHIBIT 9

Phillip Low

January 14, 2006

Boulder, CO

1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

LP MATTHEWS, LLC,)

Plaintiff,)

v.)

BATH & BODY WORKS, INC.;) CASE NO.:

LIMITED BRANDS, INC.;) 04-CV-01507 SLR

KAO BRANDS CO. (f/k/a THE)

ANDREW JERGENS COMPANY);)

and KAO CORPORATION,)

Defendants.)

- - - - -

DEPOSITION OF PHILLIP LOW

Saturday, January 14, 2006

Reported by:

Craig L. Knowles, CM

Henderson Legal Services
(202) 220-4158

Phillip Low

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Boulder, CO

2	<p>1 Boulder, Colorado</p> <p>2 Saturday, January 14, 2006</p> <p>3</p> <p>4 Deposition of PHILLIP LOW, a witness</p> <p>5 herein, called for examination by counsel for</p> <p>6 Defendants in the above-entitled matter, pursuant</p> <p>7 to notice and the Federal Rules of Civil Procedure,</p> <p>8 the witness being previously duly sworn by CRAIG</p> <p>9 KNOWLES, a Notary Public in and for the State of</p> <p>10 Colorado, taken at the Boulder Marriott, Telluride</p> <p>11 Room, 2660 Canyon Boulevard, Boulder, Colorado, at</p> <p>12 9:23 a.m., on Saturday, January 14, 2006, and the</p> <p>13 proceedings being taken down in Stenotype by CRAIG</p> <p>14 KNOWLES and transcribed under his direction.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	4	<p>1 APPEARANCES (Cont'd)</p> <p>2</p> <p>3 For Defendants Bath & Body Works and Limited</p> <p>4 Brands:</p> <p>5 John F. Ward, Esquire</p> <p>6 WARD & OLIVO</p> <p>7 708 Third Avenue</p> <p>8 New York, New York 10017</p> <p>9 212-697-6262</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
3	<p>1 APPEARANCES</p> <p>2</p> <p>3 For Plaintiff:</p> <p>4 Robert A. Auchter, Esquire</p> <p>5 Jason R. Buratti, Esquire</p> <p>6 ROBINS, KAPLAN, MILLER & CIRESI, LLP</p> <p>7 Suite 1200</p> <p>8 1801 K Street, Northwest</p> <p>9 Washington, D.C. 20006-1307</p> <p>10 202-775-0725</p> <p>11</p> <p>12 For Defendants KAO Corp. and KAO Brands:</p> <p>13 Stephen G. Baxter, Ph.D., Esquire</p> <p>14 Richard L. Chinn, Ph.D., Esquire</p> <p>15 OBLON, SPIVAK, McCLELLAND, MAIER &</p> <p>16 NEUSTADT, P.C.</p> <p>17 1940 Duke Street</p> <p>18 Alexandria, Virginia 22314</p> <p>19 703-413-3000</p> <p>20</p> <p>21</p> <p>22</p>	5	<p>1 CONTENTS</p> <p>2 THE WITNESS: PAGE NO.</p> <p>3 PHILLIP LOW</p> <p>4 By Mr. Ward..... 6</p> <p>5 By Mr. Baxter..... 92</p> <p>6</p> <p>7 E-X-H-I-B-I-T-S</p> <p>8 LOW EXHIBIT NO. PAGE NO.</p> <p>9 1 Copy of Assignment, LPM 000012/14 38</p> <p>10 2 One-page handwritten document PL 0002 39</p> <p>11 3 Agreement PL 0001 44</p> <p>12 4 Promissory Note PL 0003/4 47</p> <p>13 5 Copy of envelope from Mr. Brady PL 00005 48</p> <p>14 6 Letter, Low to Ingram, 6/16/93 52</p> <p>15 7 Letter, Greenspan to Low, 6/26/93,</p> <p>16 PL 0007 54</p> <p>17 8 Envelope, Greenspan to Low, 6/21/93 57</p> <p>18 9 Undated Letter, Greenspan to Low PL 0009 75</p> <p>19 10 Copy of check stub PL 0010 78</p> <p>20 11 Three-page document, 11/17/89 DG6001/03 109</p> <p>21 12 Two-page document DG3271/72 113</p> <p>22</p>

Phillip Low

January 14, 2006

Boulder, CO

<p style="text-align: right;">6</p> <p>1 PROCEEDINGS:</p> <p>2 - - -</p> <p>3 Whereupon,</p> <p>4 PHILLIP LOW,</p> <p>5 called for examination by counsel for Defendants</p> <p>6 and, having been previously duly sworn to the</p> <p>7 truth, the whole truth and nothing but the truth,</p> <p>8 was examined and testified further upon his oath</p> <p>9 as follows:</p> <p>10 - - -</p> <p>11 EXAMINATION BY COUNSEL FOR DEFENDANT</p> <p>12 BATH & BODY WORKS and LIMITED BRANDS</p> <p>13 BY MR. WARD:</p> <p>14 Q. Good morning, Mr. Low.</p> <p>15 A. Good morning.</p> <p>16 Q. My name is John Ward, I'm with Ward & Olivo</p> <p>17 in New York, and I represent Limited Brands and</p> <p>18 Bath3 & Body Works in this action.</p> <p>19 Have you ever been deposed before?</p> <p>20 A. Yes.</p> <p>21 Q. Would you tell me what were the</p> <p>22 circumstances of that?</p>	<p style="text-align: right;">8</p> <p>1 Q. Okay. Before that, school?</p> <p>2 A. Before that I was in school.</p> <p>3 Q. Did you graduate from high school?</p> <p>4 A. I did.</p> <p>5 Q. Any college?</p> <p>6 A. None.</p> <p>7 Q. Any technical training?</p> <p>8 A. Nope.</p> <p>9 Q. It's my understanding that you are the man</p> <p>10 who had the idea to use orange in a cleaning</p> <p>11 composition, is that true?</p> <p>12 A. That's true.</p> <p>13 Q. Can you tell me how that came about, how'd</p> <p>14 you get that idea?</p> <p>15 A. I was installing windows, and when you</p> <p>16 install windows, you have polyurethane type</p> <p>17 sealants that you use, two-part. And you get it</p> <p>18 all over your hands.</p> <p>19 Q. Tell me, what --</p> <p>20 A. Nothing really cleans it off.</p> <p>21 Q. Take me through the process. So you are</p> <p>22 installing a window.</p>
<p style="text-align: right;">7</p> <p>1 A. It was a building lawsuit.</p> <p>2 Q. Were you the plaintiff?</p> <p>3 A. We were.</p> <p>4 Q. How did it turn out?</p> <p>5 A. We won.</p> <p>6 Q. Good. Just so you know, you know, I'm</p> <p>7 going to ask a series of questions, you'll answer.</p> <p>8 You can't nod or make sounds that the court</p> <p>9 reporter can't record for us.</p> <p>10 And any time you feel like you'd like to</p> <p>11 take a break, say the word.</p> <p>12 A. Okay.</p> <p>13 Q. What do you do for a living?</p> <p>14 A. I have a home improvement and construction</p> <p>15 company.</p> <p>16 Q. How long have you had that?</p> <p>17 A. Ten years.</p> <p>18 Q. What did you do before that?</p> <p>19 A. I was a subcontract window installer.</p> <p>20 Q. Do you recall how long you were doing that</p> <p>21 for?</p> <p>22 A. Yeah, I have been doing that since 1979.</p>	<p style="text-align: right;">9</p> <p>1 A. Right.</p> <p>2 Q. You've got a frame. Run us through it.</p> <p>3 A. Well, you have a window opening. You take</p> <p>4 out the wood sashes. It depends how the window is</p> <p>5 measured, how the new system is going to go in.</p> <p>6 You are from the east, right?</p> <p>7 Q. Yes. You can tell, huh?</p> <p>8 A. You have a lot of wood windows, a lot of</p> <p>9 historic looking products, right.</p> <p>10 Q. Yes, indeed.</p> <p>11 A. Okay. What we will do is, we will take out</p> <p>12 the wooden sashes, leave the buck frame in. Then</p> <p>13 what we do is, we have a system that is</p> <p>14 historically replicated to cap over all of the old</p> <p>15 wood on the outside. And it's a new window frame</p> <p>16 that goes in on the inside and has new sashes and</p> <p>17 everything else. Then we seal up the outside, sort</p> <p>18 of a panning system out there. We seal up the</p> <p>19 panning system to make it weather tight. We put</p> <p>20 trims on the inside and seal that up to make it</p> <p>21 weather tight.</p> <p>22 Q. All right.</p>

Phillip Low

January 14, 2006

Boulder, CO

<p style="text-align: right;">82</p> <p>1 like to take a quick look at with you, all right?</p> <p>2 On Column 1, if you flip over, it's the</p> <p>3 second page. Do you see at the top there are</p> <p>4 column numbers?</p> <p>5 A. Okay.</p> <p>6 Q. Running down the center there are line</p> <p>7 numbers. So I will try to direct you to the</p> <p>8 general area, all right?</p> <p>9 A. All right.</p> <p>10 Q. Down at line 50 there is a paragraph that</p> <p>11 begins, Orange oil. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. The first sentence says, "Orange oil as a</p> <p>14 natural product derived from the rind of oranges</p> <p>15 has been recognized in the past to have some</p> <p>16 cleaning capabilities."</p> <p>17 Any idea what that is referring to?</p> <p>18 A. No.</p> <p>19 Q. And then the last sentence of that same</p> <p>20 paragraph, it reads, "Rather, efforts in the past</p> <p>21 have been directed to the combination of orange oil</p> <p>22 with other cleaning solvents to produce floor</p>	<p style="text-align: right;">84</p> <p>1 me. My mother-in-law, my wife, my brother-in-law.</p> <p>2 Q. Were you aware of any other people involved</p> <p>3 in these tests?</p> <p>4 A. I know Doug had some people, but I don't</p> <p>5 know who they were.</p> <p>6 Q. You see right below that there is sample 1,</p> <p>7 sample 2, sample 3. Do you see those?</p> <p>8 A. Yes.</p> <p>9 Q. Did you have any involvement in preparing</p> <p>10 those samples?</p> <p>11 MR. BURATTI: Objection. Form. Vague.</p> <p>12 A. Yes, I had some involvement in preparing</p> <p>13 these samples.</p> <p>14 BY MR. WARD:</p> <p>15 Q. All right. What was it?</p> <p>16 A. You know, I was the cheerleader, so to</p> <p>17 speak.</p> <p>18 Q. There's nothing wrong with that?</p> <p>19 A. Come on, Doug, let's try another one.</p> <p>20 Q. Was it you or Doug who actually made these</p> <p>21 samples?</p> <p>22 MR. BURATTI: Objection to form.</p>
<p style="text-align: right;">83</p> <p>1 cleaners, glass cleaners and the like."</p> <p>2 A. Where are you at?</p> <p>3 Q. Sorry about that. 61. The last sentence</p> <p>4 in that same paragraph.</p> <p>5 A. Rather. Okay.</p> <p>6 Q. Just read that.</p> <p>7 (Witness examines document.)</p> <p>8 A. Okay.</p> <p>9 BY MR. WARD:</p> <p>10 Q. Any idea what that is referring to?</p> <p>11 A. No.</p> <p>12 Q. Flip the page. Let's go to Column 3, okay?</p> <p>13 Take a look at, it's line 14. There is a sentence</p> <p>14 that begins "A test group." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. It says, "A test group of ten persons, male</p> <p>17 and female, were selected to subjectively evaluate</p> <p>18 the results of these samples."</p> <p>19 Do you remember the test group?</p> <p>20 A. Well, that would have been my -- I don't</p> <p>21 know all ten. I just know that there are some that</p> <p>22 I had doing it. Rob Kelly, a guy that worked for</p>	<p style="text-align: right;">85</p> <p>1 A. Doug had the chemistry. It was Doug,</p> <p>2 primarily.</p> <p>3 BY MR. WARD:</p> <p>4 Q. Flip the page one more time. Let's go to</p> <p>5 Column 6, all right? Go down to line 56. There is</p> <p>6 a paragraph that starts there, it starts with "From</p> <p>7 these tests." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Why don't you read it into the</p> <p>10 record and then you'll have gotten up to speed.</p> <p>11 A. "From these tests applicants concluded that</p> <p>12 with respect to cosmetics composition according to</p> <p>13 the present invention could have as little as five</p> <p>14 percent by volume of orange oil, although it was</p> <p>15 preferable to have a cleaning composition having at</p> <p>16 least 25 percent by volume of orange oil."</p> <p>17 MR. BURATTI: And you are entitled to read</p> <p>18 more of that document if you would like to because</p> <p>19 of the statement from the test --</p> <p>20 A. To determine whether the moisturizers had</p> <p>21 any effect on the composition --</p> <p>22 MR. BURATTI: Actually -- you can read as</p>

Phillip Low

January 14, 2006

Boulder, CO

<p style="text-align: right;">86</p> <p>1 much as you want.</p> <p>2 THE WITNESS: I can read as much as I want?</p> <p>3 MR. BURATTI: The paragraph refers to tests</p> <p>4 in the patent, I just wanted to alert you, you are</p> <p>5 allowed to read more to get up to speed.</p> <p>6 THE WITNESS: Okay.</p> <p>7 MR. BURATTI: You don't have to. You can</p> <p>8 hear the question first.</p> <p>9 THE WITNESS: Roll with the question.</p> <p>10 BY MR. WARD:</p> <p>11 Q. Do you remember how you came up with that</p> <p>12 five percent figure?</p> <p>13 MR. BURATTI: Object to the form.</p> <p>14 A. Well, as I said earlier, we took from</p> <p>15 probably 50 percent orange oil down to maybe even</p> <p>16 one percent and found -- found it worked for what</p> <p>17 we needed it to work.</p> <p>18 And with respect to cosmetics, it would</p> <p>19 have had to do with the burning of my wife's</p> <p>20 eyelids.</p> <p>21 BY MR. WARD:</p> <p>22 Q. That is when the orange oil --</p>	<p style="text-align: right;">88</p> <p>1 one percent level?</p> <p>2 A. I don't remember.</p> <p>3 MR. BURATTI: Objection.</p> <p>4 THE WITNESS: Sorry. I'll slow down for</p> <p>5 you.</p> <p>6 MR. BURATTI: Objection to form.</p> <p>7 MR. WARD: The reporter will catch up with</p> <p>8 us. Don't worry.</p> <p>9 MR. AUCHTER: It's not fair to the</p> <p>10 reporter.</p> <p>11 BY MR. WARD:</p> <p>12 Q. Let's go to Column 9. Just a quick</p> <p>13 question. The last page. Do you see line 4,</p> <p>14 Claim 1 starts on line 4.</p> <p>15 A. Okay.</p> <p>16 Q. Do you want to read that to yourself?</p> <p>17 A. Okay.</p> <p>18 Q. Claim 1 discloses a composition that has</p> <p>19 three ingredients.</p> <p>20 MR. BURATTI: Objection. Sorry.</p> <p>21 BY MR. WARD:</p> <p>22 Q. The first ingredient is identified as</p>
<p style="text-align: right;">87</p> <p>1 A. There was too much.</p> <p>2 Q. There was too much orange oil in that</p> <p>3 initial sample?</p> <p>4 A. Right.</p> <p>5 MR. BURATTI: Objection. Vague.</p> <p>6 BY MR. WARD:</p> <p>7 Q. Do you remember was that a 50 percent</p> <p>8 sample?</p> <p>9 A. I don't believe that was 50, no. But I</p> <p>10 can't -- I don't remember what percentage that was.</p> <p>11 Q. You said you went down all the way to</p> <p>12 one percent?</p> <p>13 A. We went almost down to nothing and then</p> <p>14 back up to see where the effect started in.</p> <p>15 Q. Was it your conclusion that the effects</p> <p>16 started in at five percent?</p> <p>17 MR. BURATTI: Objection misleading.</p> <p>18 A. As far as any conclusions, I didn't come to</p> <p>19 any conclusions, all I was after was my specific</p> <p>20 target was for caulking. Me personally.</p> <p>21 BY MR. WARD:</p> <p>22 Q. Sure. Do you remember what happened at the</p>	<p style="text-align: right;">89</p> <p>1 between 5 and 60 percent by volume orange oil. The</p> <p>2 second ingredient is a pharmaceutically acceptable</p> <p>3 moisturizer and the third ingredient is an</p> <p>4 emulsifying agent. Do you see that?</p> <p>5 A. Well, you had me read section 4. That</p> <p>6 doesn't say that at all.</p> <p>7 Q. I said starting with line 4.</p> <p>8 A. That is number 4, isn't it? Oh, sorry.</p> <p>9 Q. That's okay.</p> <p>10 (Witness examines document.)</p> <p>11 A. It's pretty much mumbo jumbo to me. What</p> <p>12 do you want to know?</p> <p>13 BY MR. WARD:</p> <p>14 Q. I want to know for each of these</p> <p>15 ingredients, we will go through them one at a time,</p> <p>16 whether it was your idea, Greenspan's idea or a</p> <p>17 joint idea. Okay?</p> <p>18 The first idea is five percent to</p> <p>19 60 percent orange oil?</p> <p>20 MR. BURATTI: Objection. Calls for a legal</p> <p>21 conclusion.</p> <p>22 A. That would have been between the two of us.</p>

Phillip Low

January 14, 2006

Boulder, CO

<p style="text-align: right;">118</p> <p>1 A. I can't be certain that the events leading</p> <p>2 to this letter would have preempted my decision to</p> <p>3 walk away.</p> <p>4 BY MR. BAXTER:</p> <p>5 Q. Maybe I misphrased my question. I'm not</p> <p>6 asking you if the things in this letter were --</p> <p>7 would have preempted your decision to walk away,</p> <p>8 I'm saying especially these items little 3 and</p> <p>9 little 4, the preemptive rights and the voting</p> <p>10 rights, were they part of your decision to walk</p> <p>11 away?</p> <p>12 MR. BURATTI: Same objections.</p> <p>13 A. I can't be certain.</p> <p>14 MR. BAXTER: Okay. Could we just take a</p> <p>15 couple-minute break?</p> <p>16 MR. AUCHTER: Absolutely.</p> <p>17 (Recess.)</p> <p>18 MR. BAXTER: Mr. Low, I have no further</p> <p>19 questions at this time. Thank you.</p> <p>20 THE WITNESS: Oh, great.</p> <p>21 MR. BURATTI: Can we take a couple-minute</p> <p>22 break?</p>	<p style="text-align: right;">120</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 I, Craig L. Knowles, a Notary Public</p> <p>3 within and for the State of Colorado, do hereby</p> <p>4 certify that previous to the commencement of the</p> <p>5 examination, the witness was duly sworn by me to</p> <p>6 testify the truth.</p> <p>7 I further certify that this transcript</p> <p>8 was taken in shorthand by me at the time and place</p> <p>9 herein set forth and was thereafter reduced to</p> <p>10 typewritten form and that the foregoing constitutes</p> <p>11 a true and correct transcript of the proceedings</p> <p>12 had.</p> <p>13 I further certify that I am not related</p> <p>14 to, employed by, nor of counsel for any of the</p> <p>15 parties or attorneys herein, nor otherwise</p> <p>16 interested in the result of the within action.</p> <p>17 In witness whereof, I have affixed my</p> <p>18 signature this 20th day of January, 2006</p> <p>19</p> <p>20 Craig L. Knowles, CM</p> <p>21 Notary Public.</p> <p>22 My Commission Expires June 25, 2006</p>
<p style="text-align: right;">119</p> <p>1 MR. BAXTER: Yes. Go ahead. Take your</p> <p>2 break.</p> <p>3 (Recess.)</p> <p>4 (Continued without omission on page 126 of</p> <p>5 the Business Confidential transcript.)</p> <p>6 (Whereupon, at 12:20 p.m., the taking of the</p> <p>7 instant deposition ceased.)</p> <p>8</p> <p>9</p> <p>10 _____</p> <p>11 PHILLIP LOW</p> <p>12 SUBSCRIBED AND SWORN to before me this _____ day</p> <p>13 of _____, 2006.</p> <p>14</p> <p>15 _____</p> <p>16 Notary Public</p> <p>17 My Commission Expires: _____</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	